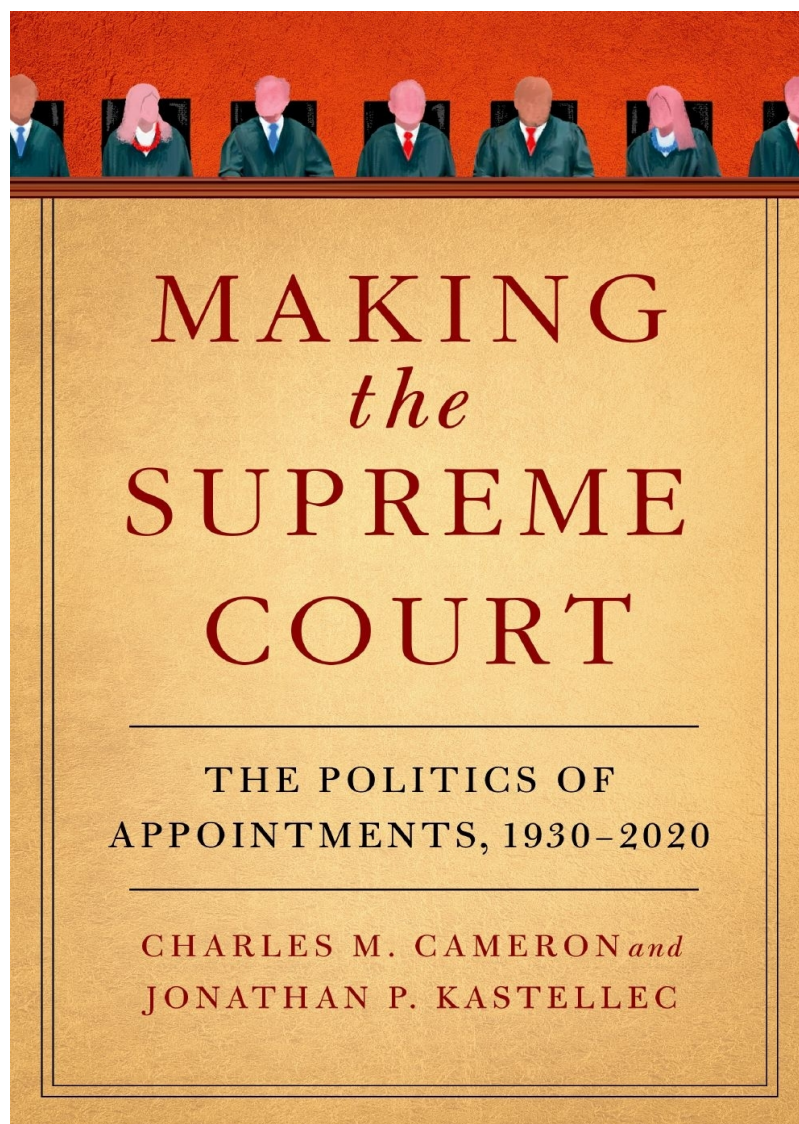


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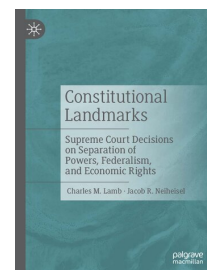


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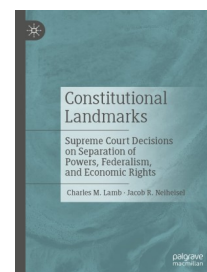
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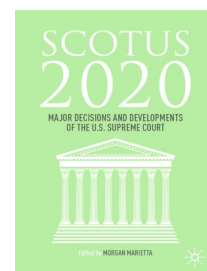
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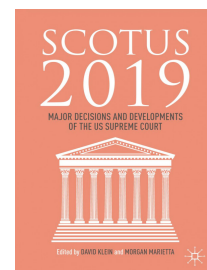
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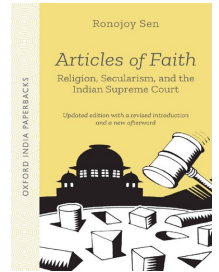


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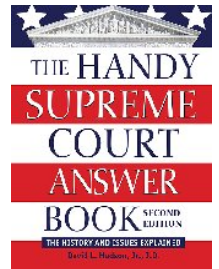
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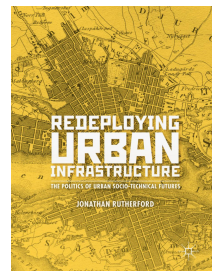
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MAKING *the* SUPREME COURT

THE POLITICS OF
APPOINTMENTS, 1930–2020

CHARLES M. CAMERON *and*
JONATHAN P. KASTELLEC

Making the Supreme Court

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The Politics of Appointments, 1930–2020

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Published in the United States of America by Oxford University Press
198 Madison Avenue, New York, NY 10016, United States of America.

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ISBN 978-0-19-768053-7
ebook ISBN 978-0-19-768055-1

DOI: 10.1093/oso/9780197680537.001.0001

Printed by Integrated Books International, United States of America

To my students, who've taught me as much as I ever taught them.

CMC

To Katie, Jack, & Nora, for all their love and support.

JK

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Acknowledgments

The ninety years from 1930 to 2020 saw stunning changes in American national politics. The politics of Supreme Court nominations changed utterly as well. When we started working together on this topic more than a decade ago, the changes that solidified into a new era were well under way. But those changes were difficult to discern at the time. They became clearer and clearer with each new vacancy on the court. As a result, what we thought might be a quick and easy book turned out to be neither, and is quite different than it would have been a decade ago. But perhaps it is more interesting.

A book of this length results in even more intellectual debts than typical. First, we thank the many co-authors we have worked with on our previously published articles on Supreme Court nominations, both together and separately: Leeann Bass, Deborah Beim, Julian Dean, Cody Gray, Jeff Lax, Michael Malecki, Lauren Mattioli, Jee Kwang Park, and Justin Phillips. The ideas from these articles all have found their way into the book, in one form or the other.

We thank several friends and colleagues who read and critiqued the manuscript in full, particularly Josh Chafetz, Tom Clark, and Nolan McCarty. We also thank reviewers at Oxford University Press and Princeton University Press for their very helpful suggestions. Several friends and colleagues read and critiqued individual chapters. Markus Prior read and thoughtfully responded to [Chapters 7](#) and [10](#), and Joshua Kalla read [Chapter 10](#) as well; we apologize for not taking all your excellent suggestions. Lewis Kornhauser, John Ferejohn, Sandy Gordon, and Anna Harvey critiqued [Chapter 12](#) in the Law, Economics, and Politics Colloquium at NYU Law School, which resulted in substantial improvements. We have presented

various chapters several times at Princeton's Center for the Study of Democratic Politics; we thank our colleagues and Princeton graduate students for many helpful suggestions over the years. Finally, many scholars offered helpful suggestions on our previously published articles on Supreme Court nominations. We thank: Chris Achen, Stephen Ansolabehere, Michael Bailey, Deborah Beim, Benjamin Bishin, Brandice Canes-Wrone, Devin Caughey, Joshua Fischman, Andrew Gelman, Virginia Gray, Andrew Guess, Alex Hirsch, Gregory Koger, George Kraus, Keith Krehbiel, Shiro Kuriwaki, Kosuke Imai, Jeff Lax, Josh Lerner, David Lewis, Michael Nelson, Tom Romer, Robert Shapiro, Chuck Shipan, Jeff Staton, Alissa Stollwerk, Yu-Sung Su, Georg Vanberg, and Alan Wiseman.

To the extent a book written by two authors over many years reads almost as if one person wrote it in a single sitting, we owe a tremendous debt to a wonderful development editor, Elaine Duncan, who read the entire book and turned our social science prose into something we hope is quite readable. (We thank econometrician extraordinaire Harry Paarsch for connecting us to Elaine.) We thank Angela Chnapko at Oxford University Press for helping us to fulfill our vision of a big book with color figures, and for helping us shepherd the manuscript through the review and production process. We also thank Alexcee Bechthold at Oxford for her timely assistance throughout the process, and Thomas Deva for excellent copy-editing. We also thank Phil and Laura Pascuzzo for designing the cover of the book. We owe a debt to Doug Arnold—in addition to his canonical work on accountability that inspired [Chapter 11](#), Doug also helped us navigate the book publishing process. We also thank long-time acquaintance Chuck Myers for sharing his formidable expertise about academic publishing.

The amount of data collected for the analyses in this book required a veritable army of research assistants over many years, and we are grateful to all for their hard work: Chelsie Alexandre, Amna Amin, My Bui, Sena Cebeci, Annabeth Donovan, Mahishan Gnanaseharan, James Goble, Laura Huchel, Julia Ilhardt, Hillel Koslowe, Mary Kroeger, Naomi Lake, Hal Moore, Michael Pomirchy,

Nina Sheridan, Ephraim Shimko, Connor Staggs, Sophie Steinman-Gordon, and Albert Wen. (We apologize if there is anyone we forgot!) Hal, Nina, and Naomi, in particular, worked tirelessly to code much of the interest group data in [Chapter 5](#). Leeann Bass and Huchen Liu worked extensively on various data and coding projects while working as postdocs at Princeton; many of the analyses in [Chapters 5, 6, 11, 12, and 13](#) would not exist without their efforts. Sally (Ye Lin) Hahn did the main coding for the simulation analyses that appear in [Chapters 13 and 14](#), while Julian Dean and Tan Shanker helped us code and merge several interest group datasets. Julian also was responsible for overseeing the creation of the dataset of newspaper editorials that appears in [Chapter 6](#). Rohnin Randles did some last-minute research assistance that greatly improved [Chapter 5](#), and Kodiak Sauer proof-read the final manuscript. Finally, we thank Princeton University and the Center for the Study of Democratic Politics for generously funding this research support.

While much of the data in the book is newly collected, a number of scholars generously shared their data with us. We thank: Stephen Ansolabehere, Michael Bailey, Tom Clark, Lee Epstein, Thomas Hansford, Philip Edward Jones, Shiro Kuriwaki, Ben Lauderdale, Geoff Layman, Rene Lindstadt, Christine Nemacheck, Jeffrey Segal, and Chad Westerland. We also thank other scholars for making their data easily and publicly accessible, including: Sara Benesh, Adam Boche, Henry E. Brady, Traci Burch, Jeffrey Lewis, Andrew Martin, Keith Poole, Kevin Quinn, Aaron Rudkin, Ted Ruger, Kay Schlozman, Luke Sonnet, Keith Whittington, and Hye Young You. Much of the data on Supreme Court nominees in the book comes from the U.S. Supreme Court Justices Database; we thank its creators for making this data very easy to work with. Similarly, the Federal Judicial Center's fantastic database of federal judge biographies was the source of most of the data on Courts of Appeals judges. Finally, our public opinion datasets would not exist without the Roper Center's for Public Opinion Research's astounding poll archive.

Cameron thanks his friend, collaborator, and former colleague Jeff Segal for many intellectual gifts, not the least of which was an

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abiding interest in Supreme Court appointments. He also gratefully thanks faculty assistant extraordinaire Helene Wood, without whose help he would have missed or forgotten every other professional deadline or responsibility.

Cameron also warmly acknowledges the contribution of a group of Columbia University and Princeton University undergraduates whose honors theses and senior theses on appointment politics he had the pleasure of directing. The theses were all interesting; more than that, the imprint of some can be found in this book. Thanks to Columbia College undergraduates Pablo Amador, Raymond Amanquah, Leslie Arias, Lee Arnold, Janet Balis, Isabel Barbosa, Katherine Beasley, Tom Brady, Michelle Brown, Phil Bussey, Anthony Canale, Tom Casey, John Cerza, Allison S.Y. Chang, Sam Chi, Eugene Chen, John Patrick Collins, Dennis Comstock, Kevin Connolly, Julie Davidson, Wade Davis, Elizabeth Doherty, Alexis Donnelly, Peter Egan, Marily Farquharson, Robert Fernandez, Jack Gaeta, Robert Gaudet, Jr., Ross Gotler, Shin-Kap Han, Brian Hansen, George Hassan, Joe Hill, John Jennings, David Lee, Paul Lee, Andrea Lipton, Daneil Lorge, Mark Mandrake, Lorely Martinez, Maria Master, Jennifer Maxfield, Steve McNulty, Ingrid Michelsen, Stuart Miller, Doug Murphy, Paul O'Donnell, Yon Okorodudu, Sean Rogers, RaLea Sluga, Michele Smith, Jeffrey Sweat, Yin Yin Tan, Peter Torres, Alex Trias, and Phillip Winiecki. He also thanks Allison Margolin for memorable discussions about many aspects of the law. Notable Princeton undergraduates included Mikaela Weber, Ross Williams, and Daphne LeGall. He apologizes to any whose name has escaped him.

Finally, we thank the University of Chicago Press, Cambridge University Press, and Now Publishers for granting us permission to reproduce work from our published articles in the book. This includes:

- Portions of [Chapter 5](#) appear in our 2020 article, "From Textbook Pluralism to Modern Hyper-Pluralism: Interest Groups and Supreme Court Nominations, 1930–2017," co-authored

with Cody Gray and Jee-Kwang Park and published in the *Journal of Law & Courts*.

- Portions of [Chapter 8](#) appear in our 2013 article, “Voting for Justices: Change and Continuity in Confirmation Voting 1937–2010,” co-authored with Jee-Kwang Park and published in the *Journal of Politics*.
- Portions of [Chapter 9](#) appear in our 2021 article, “Presidential Selection of Supreme Court Nominees: The Characteristics Approach,” co-authored with Lauren Mattioli and published in the *Quarterly Journal of Political Science*. In addition, the discussion in the first part of [Chapter 9](#) about move-the-median theory is drawn from our 2016 article, “Are Supreme Court Nominations a Move-the-Median Game?,” published in the *American Political Science Review*.
- The voter accountability analysis in [Chapter 11](#) is based on our 2022 article, “The Politics of Accountability in Supreme Court Nominations: Voter Recall and Assessment of Senator Votes on Nominees,” co-authored with Leeann Bass and published in *Political Science Research Methods*. In addition, the co-partisan analysis in [Chapter 11](#) is based on Kastellec’s 2015 article, “Polarizing the Electoral Connection: Partisan Representation in Supreme Court Confirmation Politics,” co-authored with Jeffrey Lax, Michael Malecki, and Justin Phillips, and published in the *Journal of Politics*.

We have created a website for the book—www.makingthesupremecourt.com—that contains the Appendix to the book, as well as replication data and code for all the analyses that appear in the book.

PART 1

WHAT HAPPENED

1

Then and Now

He [the President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

—U.S. Constitution, Article II, Section 2

On January 31, 1941, James McReynolds announced his retirement as an associate justice of the Supreme Court. McReynolds, appointed by President Woodrow Wilson in 1914, was one of the notorious “Four Horsemen,” a bloc of justices who consistently voted to strike down as unconstitutional President Franklin Roosevelt’s New Deal measures between 1933 and 1937. Although the court would eventually endorse the New Deal in full in 1937, McReynolds continued to oppose it until the bitter end of his tenure on the bench.

McReynolds’s retirement granted Roosevelt, now in his third presidential term, his sixth Supreme Court appointment. During his first term, Roosevelt had no opportunity to alter the court’s membership and end the reign of the Four Horsemen. Following his landslide re-election in 1936, Roosevelt proposed court packing—increasing the number of justices to give a favorable majority—as a way to break the logjam. While Congress soundly rejected the court

packing plan, Roosevelt ultimately prevailed, as a majority of the court dropped its opposition to the New Deal that year.¹ Then, a combination of five retirements and deaths between 1937 and 1940 granted Roosevelt the opportunity to greatly reshape the court.

A few months after McReynolds' announcement, Chief Justice Charles Evans Hughes announced his retirement as well. Roosevelt now had the rare opportunity to select a new chief and simultaneously replace an associate justice. The master politician eagerly grasped the chance, converting it into a "triple play." First, he nominated sitting Justice Harlan F. Stone to replace Hughes as chief justice. Then he nominated Senator James Byrnes, a strong New Dealer who had supported court packing, to replace McReynolds. Finally, he nominated his attorney general, Robert Jackson, to replace Stone as associate justice. In one stroke, the triple play replaced 22% of the court's membership and produced a much friendlier chief justice.

Roosevelt officially submitted all three nominations to the Senate on June 12, 1941. Democrats overwhelmingly controlled the 77th Senate and saw eye-to-eye with the president on judicial matters. Nevertheless, one might have expected the august body to review the three appointments with a degree of due diligence. For example, Byrnes, a power broker in the Democratic Party, had enjoyed a long and distinguished career as a House member and senator from South Carolina—but he never attended law school nor practiced at the Supreme Court Bar.² Such diligence would not come due, however—the Senate confirmed Byrnes on the same day it received his nomination! The Senate's reviews of Stone and Jackson were only slightly less perfunctory; unlike Byrnes, both were referred to the Senate Judiciary Committee for a hearing. But the hearing was brief, and the Senate quickly confirmed both nominees by voice vote, with not even a single dissent sounded against them. Within a span of five years, Roosevelt had appointed an astounding eight justices.³ The court that had so famously frustrated the president would no longer pose any obstacle to his agenda.

Seventy-five years later, things looked quite different. In February 2016, Justice Antonin Scalia died suddenly while on a hunting trip. Scalia's death created an unexpected opportunity for President Barack Obama—in his last year in office—to make a third appointment to the court. The Senate had confirmed his first two appointments, Sonia Sotomayor and Elena Kagan, with minimal fuss in 2009 and 2010, respectively. But Democrats overwhelmingly controlled the Senate in those years. Although fewer than 10 Republican senators voted “yea” on either nominee, the GOP's opposition did little to impede Sotomayor and Kagan's smooth paths to confirmation.

The political landscape in 2016 was quite different, however. The 2014 midterm elections placed Republicans in control of the Senate. Within mere hours of Scalia's death, the new Senate Majority Leader, Mitch McConnell of Kentucky, threw down the gauntlet, stating in a press release that Senate Republicans had no intention of filling the vacancy before the inauguration of the next president in 2017.⁴

A month later, President Obama nominated Merrick Garland, a widely respected judge on the U.S. Court of Appeals for the D.C. Circuit, to replace Scalia. In 2009 and 2010, Obama had placed Garland on the short list of candidates for the vacant seats. But he passed over Garland in favor of Sotomayor and Kagan, purportedly to “save” him for possible future appointment under divided party government. Indeed, relative to the larger pool of potential Democratic nominees, Garland was noticeably less liberal and also somewhat older than a typical modern nominee. In fact, in 2010, Senator Orrin Hatch, a Republican and a former chair of the Senate Judiciary Committee, had urged Obama to nominate Garland to replace Justice John Paul Stevens, stating that Garland would be a “consensus nominee” and confirmed with broad bipartisan support.⁵

Six years later, however, Obama's selection of Garland met a brick wall. Under McConnell's leadership, the Senate took no action on Garland's nomination. The Judiciary Committee held no hearings, and no floor vote was ever scheduled. Though some nominees prior to the Civil War and then again during Reconstruction and the late

nineteenth century were rejected quite summarily by the Senate, the tactic of refusing to take *any* action on a Supreme Court nominee appears to be unprecedented.⁶ Nine months after Scalia's death and eight months after Garland's nomination, Donald Trump shockingly upset Hillary Clinton in the 2016 presidential election, thereby dooming the already slim prospects of a Garland confirmation in the lame duck period. Garland's nomination would end with no bang and barely a whimper on January 3, 2017, the day the 114th Congress officially ended.

The successful deep-sixing of Garland gave Trump the rare opportunity to enter office with a Supreme Court vacancy in hand. Trump had invoked the vacancy as a campaign issue, pledging to appoint conservative justices in Scalia's mold; he even took the unprecedented step of publicizing during the campaign a list of potential nominees from whom he would choose.⁷ On January 31, 2017, Trump kept his promise. From his public list, he picked Neil Gorsuch, a judge on the Tenth Circuit Court of Appeals, to replace the conservative icon Scalia.

By all accounts, Gorsuch was highly qualified, having served on the Court of Appeals for a decade—indeed, the American Bar Association gave Gorsuch its highest rating of “well qualified.” When George W. Bush nominated Gorsuch to the Tenth Circuit in 2006, Democrats joined Republicans in confirming him unanimously. Now, with the Senate in Republican hands, a smooth elevation of the president's pick to the highest court might have seemed likely. But McConnell's blockade of Garland had enraged liberal activists, groups, and voters, and many Democratic senators pledged to do everything they could to block Gorsuch's path.

The main procedural tool available to Senate Democrats was the filibuster. The 2016 elections had left Republicans with a narrow majority (52 to 48), which meant that if enough Democrats stood together, Gorsuch would not achieve the 60 votes required to overcome a filibuster. Indeed, on April 6, a cloture vote to move Gorsuch's nomination to a final vote received only 55 votes in favor, five short of the 60-vote threshold. If the process had ended there,

Scalia's seat would have continued to sit vacant. But Senate rules depend upon the preferences of the majority. The next day, McConnell turned the tables on the Democrats by exercising the "nuclear option"—introducing a measure to change the cloture threshold for Supreme Court nominations to a simple majority. In 2013, Democrats had used the same tactic to quash persistent minority Republican opposition to Obama's appeals court nominees—but only for lower federal court nominations.⁸ Now, a majority of Republicans voted to remove the filibuster for Supreme Court nominees as well, paving the way for Gorsuch to be confirmed the next day by a vote of 54–45.

In the end, the fact that Gorsuch, not Garland, replaced Scalia meant that the court would remain broadly conservative in its overall trajectory, rather than moving to the left for the first time in several decades.⁹ In short, the policy consequences of the appointment politics of 2016 and 2017 were substantial. Moreover, the death of the filibuster for Supreme Court appointments seemed to foretell a future of extremist nominees—from both parties.

* * *

If Roosevelt and his advisors could have looked into a crystal ball and foreseen the confirmation story of 2016, they would have been astounded. The rancor and divisiveness of the politics would have reminded them of Reconstruction, the key experience of their parents' generation. What new Civil War could have triggered this partisan battle over Supreme Court appointments? Conversely, Obama and McConnell probably never spent much time studying Roosevelt's brilliant triple-play appointments of 1941. The politics of the early 1940s would have seemed as distant from their reality, and as irrelevant, as life on Mars.

What produced the sea-change in appointment politics between 1941 and 2016?¹⁰ This question lies at the heart of this book. Answering it requires a journey through American history and politics. It also requires the tools of modern political science.

1.2 The Pelican Problem

Supreme Court appointments have rarely been subjects for works of popular culture. But there is one high-profile exception: *The Pelican Brief*, the 1992 pot-boiler novel by John Grisham, which was turned into a movie starring Julia Roberts and Denzel Washington the following year. In typical Grisham style, the plot of *The Pelican Brief* favors intrigue and action over verisimilitude. But, if you indulge us, the plot is actually instructive for our theoretical approach in this book.

In the novel, an oil developer has a project tied up in litigation by an environmental group. The case seems likely to head to the Supreme Court. If the high court rules in a liberal, pro-environment fashion, the developer stands to lose billions. So what is the poor developer to do? Ask his lawyers to write a really good brief? Fortunately for the novel's readers, a demented legal genius in the developer's law firm suggests a somewhat more aggressive litigation strategy: simultaneously assassinate two Supreme Court justices. The legal genius's elaborate calculations show that their likely replacements will alter the balance of power on the court, leading to a conservative outcome and assuring the developer and his law firm an enormous financial windfall.¹¹

Of course, we do not endorse assassination as a means of advancing one's legal and financial goals. But as political scientists, we could not help but be impressed by the actions of the legal genius, who performed a social science *tour de force*. First, he understood the court so well that he could accurately predict how replacing any Supreme Court justice and changing the ideological mix on the court would affect case outcomes. Second, he understood presidential politics so well that he could accurately forecast the likely ideology of a president's nominee based on the president's ideology, the make-up of the Senate, and other relevant factors surrounding a nomination. Third, he understood the behavior of the Senate, interest groups, the media, and public opinion so well

that he could accurately foresee the outcome of the confirmation process for any given Supreme Court nominee.

We call this analytical challenge “the Pelican Problem.” In a nutshell, the task of solving the Pelican Problem means:

- Predict the likely ideology of a Supreme Court nominee chosen by any given president under any given circumstances;
- Forecast the outcome of the confirmation battle for any given nominee; and
- Foresee the broad policy consequences of replacing any Supreme Court justice with a new justice.

Finally, because we have rather “high church” tastes in social science, it also means:

- Use political science theory to ground the predictions and forecasts.

If one can solve the Pelican Problem, one can claim to understand the politics of Supreme Court nominations.

Can real-world political scientists follow in the footsteps of Grisham’s legal genius and actually crack the Pelican Problem? Remarkably, for a time it looked like the answer was “yes.” Starting in the late 1980s, political scientists created a simple, clear, and logical theory of Supreme Court appointment politics: Move-the-Median (MTM) Theory. As a social science theory, MTM is quite elegant; for any vacancy, it makes predictions about the type of nominee a president should select, whether the Senate should vote to confirm or reject a nominee, and the impact of a nominee on the court’s decision making. Unfortunately, it turned out that these predictions fall short when applied to the real world of nomination politics. In a 2016 article in the *American Political Science Review*, we undertook an exhaustive review of MTM theory’s predictions and arrayed them against a great deal of newly available data. We showed that, for nomination politics since 1930, MTM theory does a

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weltbewegende Entdeckung machen und den Beweis erbringen konnte, daß der Diamant verbrennlich ist, und ich werde vorschlagen, daß man diese seltene und kostbare Art der Verflüchtigung für ewige Zeiten ‚vermillionisieren‘ nennen solle.“

Meine gütige, junge Herrin lächelte schon wieder ein wenig.

„Sie haben recht,“ sagte sie. „Reinezabellisieren‘ klänge lange nicht so gut.“

Freilich fiel uns nachher ein, daß Herr Bouffler wiederholt die Taktlosigkeit begangen hatte, unsere Herrin um ein Darlehen zu bitten, um dessen Rückerstattung er sich niemals bekümmert hatte. Nun, wer Geld braucht, kann auch Diamanten brauchen, schlossen wir. Aber es war zu spät. Herr Bouffler und vielleicht auch das Halsband waren schon in England.

Dennoch versuchte Madame es noch einmal mit der Wissenschaft. Denn, Gott hat es angesehen: Als die Lebenskundigen und die Herren von Esprit und die Freigeister ihre Walze in den Salons abgespielt hatten, als selbst der Zynismus nicht mehr verfiel und die Philosophie all ihre Prismen verspiegelt hatte, da hielt sich die Wissenschaft merkwürdig lange Zeit fest in den Gemütern, und wer modern sein wollte, mußte wenigstens in den Volkswirtschaften irgendwie werkgeübt sein. Sogar der König feilte und schlosserte. Es war zwar keine Wissenschaft, aber was ähnliches.

Nun kam Madame mit Maitre Pierre Savonnard zusammen, und endlich fand es sich, daß sie mit einem Manne etwas Besseres gemeinsam hatte als den Geschlechtsunterschied. Denn die Freude am Experimentieren, die meine schöne Gräfin zum Chemiker gedrängt hatte, verriet damals schon die Neugierde eines Kindes. Und dieselbe kindliche Begierde zur Forschung, ja ich möchte sagen,

dieselbe Kinderei des ganzen Wesens, trieb unseren guten Doktor an. Es war rührend zu sehen, wie diese beiden Leute, meine Herrin, klar und schön wie eine Lilie, und der lebhafte Doktor, stark, ansehnlich und frisch, diese Leute, die so leicht Geliebter und Geliebte sein hätten können, sich nur als Kinder fanden.

Ach und wie glücklich waren sie dabei! Alles, was sie als große Leute tun gelernt hatten, vergaßen sie aneinander und lebten wie Kameraden von neun Jahren, denen vom Leben noch nichts anderes gehört — als die ganze Welt, mit Ausnahme ihrer Unruhe. Wie steckten sie die Köpfe über ihrem Mikroskop — nein: über ihrem Spielzeug, zusammen und riefen mich zu sich hin! Die, die dachten nicht daran, sich zu küssen! Aber sie liebten sich viel längere Zeit, als Madame mit den fünf anderen Herren verloren hatte, die ich seit meinem Dienstantritte kommen und gehen zu sehen die Ehre gehabt hatte. Pierre war ein Kind wie sie; das war es.

Wer weiß, wie lange und wohin sich dieses wahrhaft paradiesische Verhältnis fortgespielt hätte, wenn nicht so ein Idealist vom Beginn der Neunzigerjahre hinzugetreten wäre.

Robert Ducrac kam und griff erst Madames vorvergangenen, aber noch immer berühmten Freund Lagratte an. Es waren gewaltige Lufthiebe, die er tat, aber sie freuten uns sehr, weil er auf einen Abgetanen eifersüchtig war; also auf einen Unbesieglichen.

„Darf es für einen Philosophen, der das Leid der Welt durchschaut, das Ereignis seiner Tage bilden, im Kreise von Modeleuten zu regieren und jeden Abend anderswo zum Speisen eingeladen zu sein? Herr Lagratte wird mir antworten, er erzöge Menschen. Was für Menschen, wenn ich bitten darf? Sie sind auf alles neugierig und zu nichts herangebildet. Sie kümmern sich gar nicht um unsere Gedanken: Sie leben in den Tag hinein und reden nicht der Philosophie zuliebe, sondern philosophieren, um zu plaudern.“

„Aber man lebt doch, um zu plaudern; nicht?“ fragte ihn Reinezabelle.

„Sie verdienen nicht, um besserer Dinge willen zu leben,“ schrie sie Ducrac mit seinem dicken Gesichte an. Er war ein großer Idealist, aber kurz, fest, rot, fett und heftig. Er war böse wie ein Luchs, war gefährlich und stets zum Zuschlagen gespannt, wie ein Tellereisen, liebte niemand als sich selber, und das nicht einmal genügend, daß er seine Hände und Haare in Ordnung gehalten hätte. Er ging seit der Erstürmung der Bastille in langen Hosen, nannte Madame und mich Bürgerin und war entsetzlich grob.

Aber was tun? Vor einem Jahre noch mußte jeder Salon von Geltung seinen Hausphilosophen haben, nun waren die Republikaner Sensation, und wer nicht lächerlich oder gar gefährdet sein wollte, hielt große Stücke auf einen Hausrevolutionär. Der unsere war sehr unangenehm zu ertragen, denn es hatte ihn, wie alle unsere Gäste, die Neigung zu Frau Reinezabelle ergriffen. Was aber bei den anderen infolge bester Erziehung oder großer Kühle der Gemütsart ein leichtes Spielchen war, wurde bei ihm gleich zur Sache der Republik, und als Madame nicht augenblicklich der Stimme der Natur folgen wollte, wie er ihr zumutete, ward er auf Herrn Savonnard wolfsböse.

Zu allem Unglück ertappte er den armen Pierre mit Reinezabelle in dem Augenblick, als er ihren schönen Amazonenpapagei, der eingegangen war, mit ihr sezierte, nachdem er dessen Ende auf das innigste mit ihr betrauert hatte. Madame glaubte, er sei an gebrochenem Herzen gestorben, weil seit einigen Monaten der allgemeine Umgangston lauter und kreischender geworden sei, als seine eigenen Stimmittel ihm nachzuahmen gestatteten.

Pierre legte mit dem Skalpell das kleine Herz des Vogels bloß und löste es heraus. Er zeigte ihr, daß dieses leidenschaftliche

Geschöpf nur drei Herzkammern gehabt habe, während der Mensch deren vier besäße.

Als nun meine schöne Herrin bei der Erwähnung dieses kleinen, unvollkommenen Herzens zu weinen begann, weil es sie an ihr eigenes erinnerte, und Savonnard ihr wie ein guter Kamerad tröstend den Arm über den Rücken legte, trat Ducrac unangemeldet ein. Er hatte mich im Nebenzimmer einfach an die Wand gerannt, sah die beiden zorn erfüllt an und schrie: „Bürger Savonnard, Sie konspirieren mit dem Adel!“

Dann drehte er sich um und fuhr polternd ab wie ein Schotterkarren.

Madame lachte sehr und Savonnard auch. „Nun sind wir kompromittiert,“ rief sie fröhlich, und er schmunzelte: „Ja, wirklich, das hätte ich mir wahrhaftig nicht träumen lassen!“

So harmlos nahmen sie es; aber mir bangte, denn ich hatte vom Blutdurste Ducracs schon üble Dinge gehört.

Um diese Zeit, als die französische Tagesliteratur sich in unglaublicher Weise verschlechtert hatte, brachte ich Reinezabelle endlich dazu, auch einmal einen der deutschen Dichter zu lesen, von denen sie eine sehr geringe Meinung hatte. Ich hatte schon vor über einem Jahrzehnt den „Werther“ in der Sprache meiner Straßburger Heimat gelesen, und er lag mindestens ebenso lange in einer vortrefflichen Übersetzung vor. Ich hatte diesen Band wiederholt meiner schönen jungen Frau Admiral auf das Taburett neben das Sofa gelegt, aber sie hatte ihn gar nicht aufgeschlagen.

Damals nun sollte Madame einen Ball besuchen, der um 10 Uhr abends begann. Durch die einfachere Tracht jener Saison wurde sie um eine halbe Stunde früher fertig und langweilte sich nun, während ihr Wagen unten erst aus der Remise gezogen und hergerichtet wurde.

Da entdeckte sie den „Werther“, setzte sich zum Licht und begann zu lesen.

Der Kutscher ließ melden, es sei angeschirrt. Sie sagte: „Gleich, gleich!“ und las weiter.

Die Pferde standen und scharften, der Portier brummte, der Kutscher schlief auf dem Sitze ein, sie oben hatte alles vergessen. Ball und Wagen, Bediente und mich, die ich mit meiner Stickerei hinter ihr saß und nichts hörte als ihren jähen, schnellen Atem, das hastige Herumreißen der gelesenen Blätter und immer wieder das leichte Aufschlagen einer Träne auf das Papier. Es klang, wie wenn der Föhnwind mit einzelnen verirrtten Regentropfen gegen ein Fenster tippt.

Und zwei- oder dreimal hörte ich sie ganz leise und innerlich schluchzen, wobei die liebe Stimme so hoch und rein dahinzog wie der Ton einer Geige.

Gegen Mitternacht ließ sie den Wagen abschirren. Sie las weiter bis 2 oder 3 Uhr; bis zur letzten Seite und war dann so erregt, blaß und unglücklich, und doch so beseligt und schön, daß ich mich wunderte, warum noch kein Mann um dieser Frau willen gestorben sei.

„Ach,“ sagte sie mir unter Tränen. „Ich habe ja bis heute niemals gewußt, was Liebe ist! O könnte ich leiden um der Liebe willen! O gebenedeiter Monsieur Werther, o beneidenswerte Lotte! Seliges Unheil! Wie geheiligt ich bin! Sagen Sie doch: Wie sieht dieser Monsieur Goethe aus? Was erzählt man sich von ihm?“

Seit jener Nacht wünschte Madame dringlichst, einmal in ihrem Leben eine wirkliche Liebe zu erleiden.

Und es kam, wie sie wünschte.

Unter ihre Gäste hatten sich in jener Zeit viele jüngere Leute gefunden, die ihre Augen sicherlich nicht zu der schönen Herrin des Salons zu erheben wagten. Es waren beflissene und ehrgeizige Menschen, die bei dem einflußreichen Bekanntenkreise Madames Gelegenheit zu einer erfolgreichen Karriere zu finden gedachten. Zu diesen Leuten gehörte auch ein junger Artillerieleutnant, der eine recht armselige Uniform trug; ein Mensch mit gelbem, magerem Gesicht, wirren Haaren und wirren Reden, die er, stets aufgeregt, in einem nicht sehr gewählten Französisch von stark italienischer Aussprache hervorstieß.

Da sein Taufname ungemein fremdartig war und durch die korsische Aussprache noch viel lächerlicher klang, so nannte ihn die stets lachlustige Reinezabelle nie anders als mit diesem Namen: Leutnant Naboulione.

Der arme Teufel war wegen eigenmächtiger Entfernung aus der Armeeliste gestrichen worden, besaß nicht mehr als seine Uniform und lebte von den Soupers, zu denen man ihn einlud und die er eifrig besuchte. Er war erst seit kurzem in Paris und wünschte sehr, ein wenig in die Höhe zu kommen.

Ducrac, um dessen Freundschaft er sich neben jener des jüngeren Robespierre eifrig bewarb, versicherte mir: „Glauben Sie nur nicht, daß Leutnant Naboulione, für dessen Armut und Originalität sich die sentimentale Reinezabelle so sehr interessiert, um ihretwillen diesen Salon besucht. Ihr Mann, der Admiral, ist Hafenkommandant von Marseille, und der verabschiedete Leutnant benötigt dort dringend eine Stelle. Verweigert sie ihm, und er wirft euch seinen Hut ins Gesicht und geht anderswohin. Sagen Sie das der Bürgerin.“

Ich tat es; Reinezabelle lachte sehr und sagte:

„Nun ist Ducrac auch auf Naboulione eifersüchtig. Ich muß mir den doch genauer ansehen.“ Und sie begann den gelben,

ungeschliffenen Knirps mit dem zerrauften Haar zu bevorzugen, was diesem nur selbstverständlich schien. Er wurde nicht sehr viel wärmer, außer wenn er Madame von dem Glück erzählte, das ein Oberst der Artillerie in Marseille genösse.

Sie aber lachte und sagte: „Nein, wir wollen Sie in Paris haben.“

„Madame wüßten eine Stelle für mich?“

„Die beste. Alle Abend hier in meinem Salon.“

Naboulione lächelte sauer, bemühte sich aber sehr, es in verbindlicher Weise zu tun. Damals fragte ich mich empört: „Wo hat der Kerl nur seine Augen?“

Heute weiß ich freilich, wo er sie hatte.

Eines Abends war man ungemein aufgeregt. Der König war hingerichtet worden, und Ducrac gab im Salon, Frau v. Vermillon zuliebe, die Generalprobe zu einer fürchterlichen Rede, die er kommenden Tages im Parlament zugunsten weiterer Adelsguillotinierungen halten wollte. Es war schaurig schön; alles applaudierte und prophezeite seiner Rede den besten Erfolg.

Naboulione stand tiefbefriedigt nebenbei. In manchen Dingen erwies er sich schon damals als der geniale Mensch, der später auch den praktischen Erfindungen seiner Zeit weit vorauselte. Damals hatte er, im stürmischen Drang, seinen Hunger zu stillen und dennoch den Gaumen mit all den reizvollen Genüssen zu bedienen, die man hier als Erfrischungen umherbot, auf einem Brötchen folgende Dinge zusammengestopft: ein Stückchen Käse, ein Stück Salmen vom Schwanzteil, einen Essigpilz, etwas Räucherfleisch, eine Olive und ein wenig Butter¹.

Daran fraß er, beständig abbeißend. Nur die Revolution machte solche Unsitten salonmöglich.

Als nun Herr Ducrac seine Rede beendet hatte, versicherte Madame mit großer Lebhaftigkeit, es sei die höchste Zeit, daß die Adeligen ihre Stellen räumten, um sie den unverbrauchten Kräften der Republik abzutreten. Sie selbst habe, teils aus Überzeugung, teils aus Sorge um den Kopf ihres Mannes, den Admiral de Vermillon bewogen, seine Stelle niederzulegen und sich ins Privatleben zurückzuziehen.

„Unmöglich!“ schrie entsetzt Leutnant Naboulione dazwischen.

Reinezabelle fragte ihn, warum er so böse sei?

„Weil ein Mann auf seinen Posten gehört. Weil es von einem Kommandanten schändlich ist, aus Sorge um seinen Kopf sich den Pflichten zu entziehen, die er noch nicht einmal erfüllt hat! Marseille ist schlecht armiert. Es mangelt dort an Artillerieoffizieren. In Marseille ist Admiral Vermillon notwendig, in Paris als Privatier höchst überflüssig!“

„Aber mir ist er nicht überflüssig,“ sagte Madame, der es Freude machte, ihn mit ihrem Manne zu necken, in schuldlosem Ton. „Ich habe ihm selbst geschrieben, zu mir zu eilen in einer Zeit, wo Liebe, Treue und zartes Gefühl teuer zu werden beginnen. Ich habe ihm heute bei der Nationalversammlung sein Entlassungsdekret erwirkt. Aber, Herr Leutnant! Sehen Sie mich nicht so böse an. Sie werden mein täglicher Freund bleiben, auch wenn der Admiral zu Hause ist.“

„Sie zerreißen das Entlassungsdekret! Nicht wahr, Ducrac, es ist doch zu annullieren?“ bat der tolle, kleine Mensch.

„Aber im Gegenteil,“ rief Reinezabelle. „Ich habe es heute mit der Eilpost abgeschickt und ...“

Naboulione schnitt ihr das Wort auf eine Weise ab, wie sie unmöglich in Korsika, ja nicht einmal auf den Südseeinseln üblich

sein konnte! Er warf ihr die noch unverzehnte Hälfte seines belegten Brötchens an den Kopf.

Reinezabelle schrie laut auf vor Schreck, und wir waren alle zerdonnert, ja geradezu in Salzsäulen verflucht.

Dieses war die ungeheuerlichste Tat der Republik. Der Kopf des Königs wog nicht so schwer als diese brutale Mißhandlung einer schönen Frau.

Naboulione entfernte sich in großer Bewegung, und mit einem Ausdruck voll Schreck, Sorge und ausbrechender Liebe sah ihm Reinezabelle nach. Im blonden Haar steckte ihr das Schweifstück des Salmen, am Ohrgehänge hatte sich ein Bissen Räucherfleisch verfangen, und die Butter befleckte ihr sonst stets lächelndes Grübchenkinn. Aber sie machte keine Bewegung, sich zu reinigen.

Es war ein entsetztes Stillschweigen hinter dem wilden kleinen Artilleristen. Erst als Ducrac die Roheit hatte, Bravo zu sagen, ging das Gezeter über Naboulione los. Man fand, das Maß der Schrecken habe seinen Höhepunkt erreicht, und während ich Madame abputzte, sagte ein Orientalist, daß solches bei den Türken unmöglich wäre, und zitierte einen arabischen Spruch hierzu:

Mit einer Blume nur zu schlagen
Ein Frauenbild sollst du nicht wagen.

Reinezabelle aber sagte, während ich sie abwischte, nur immer verklärt: „Welche Leidenschaft! Welche Leidenschaft! Und bloß, weil mein Mann zu mir kommen soll. Nein, diese Leidenschaft! Das ist korsisch, meine Liebe!“

Ich glaube, sie hätte den kleinen, schlimmen Leutnant in allen Gassen von Paris suchen lassen, wenn sich nicht am nächsten Tage Ducrac ebenso abscheulich benommen hätte. Er hatte seine Rede gehalten. Ein brüllender Aufruhr fegte durch die Gassen; aus dem wimmelnden Volkstrott ragten auf Stangen gespießte Köpfe. Eben zog sich Reinezabelle, die neugierig ans Fenster geeilt war, mit den

Worten zurück: „Kommen Sie, liebe Babette, ich sehe dergleichen immer noch nicht gerne,“ da flog ein abgeschlagenes Menschenhaupt auf den Balkon herauf, kollerte in das Zimmer und eine Stimme rief: „Besuch von Herrn Savonnard! Souvenir der Revolution!“

Madame war leichenblaß geworden. „Nein,“ sagte sie dann, „das wird zu arg! Diese Leute beginnen geschmacklos zu werden mit ihren Köpfen. Räumen Sie das hinaus und lassen Sie sofort meine Koffer packen.“

Wir wandern aus. Die Sitten sind hier zu frei. Nicht wegen dem belegten Brötchen, o nein. Aber an die Art dieses Ducrac werde ich mich niemals gewöhnen. Er hat mir alle Freude an Paris verdorben.“

Im Exil zu Köln verbrachte sie sehnsuchtsvolle Jahre. Sie konnte den kleinen, rohen Naboulione seit seiner Schandtat nicht mehr vergessen. Als dann der kleine Leutnant bei Lodi und Novi, bei den Pyramiden und bei Marengo zum großen General wurde und die Welt auch am Konsul Bonaparte noch immer nicht genug erlebt hatte, als er, der Kaiser, seinen drolligen Taufnamen wieder hervorsuchte, nur daß er ihn jetzt in besserem Französisch zu nennen wußte, da weinte die unglückliche, einsame Frau vor leidenschaftlicher Liebe nach ihm, dem sie nie mehr wieder nahetreten sollte.

„Ach,“ klagte sie. „Ich hatte die ganze Geschichte des Rokoko und der Revolution in Gestalt von Freunden durchgeliebt und sie gaben sich in allen Nüancen dieser wechselreichen Zeit; aber mißhandelt hat mich keiner.“

Er aber, er hat Völker, Könige, Ideen, Religionen, Philosophien und Gelehrte geschlagen. Alle mit anderen Mitteln, mich aber, allein von allen, durch den Schwung seiner zornigen Hand. Mir bestätigte er seine Eigenart am persönlichsten.

Und nun ist er Kaiser; er heiratet diese Marie Louise und ich hätte ihn so gut verstanden.

Schade! O schade!”

¹ Er war also auch der Erfinder der Sandwiches. Anm. d. Herausgebers.



*** END OF THE PROJECT GUTENBERG EBOOK VOM STERBENDEN
ROKOKO ***

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